



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 1713-09
11 January 2010

[REDACTED]

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This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 January 2010. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

On 9 September 1972, prior to your enlistment in the Navy, you signed pre-enlistment documents in which you responded "No" to questions regarding the use of illegal drugs. About a month later, on 2 October 1972, you enlisted in the Navy at age 17. On 13 November 1972 you submitted a statement regarding your pre-service drug use of marijuana and lysergic acid diethylamide (LSD) during the period from January to July 1972. This statement also noted that you wanted to be discharged because of your fear of flashbacks from the use of illegal drugs.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to fraudulent entry. At that time you waived your right to consult with legal counsel and to submit a statement of rebuttal to the discharge.

Shortly thereafter, the discharge authority directed your commanding officer to issue you a general discharge by reason of misconduct, and on 28 November 1972, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth, post service conduct, and desire to upgrade your discharge. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of the seriousness of your fraudulent entry which was the result of your failure to disclose your complete history of pre-service drug abuse. Accordingly, your application has been denied.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,


W. DEAN PFEIFFER
Executive Director